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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue

Addendum

Mission to Montenegro: comments by the State on the report of the Special Rapporteur*

* Reproduced as received.

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1. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression visited Montenegro from 14 to 17 June 2013, based on the open invitation extended by the Government of Montenegro using al the special procedures. The Government of Montenegro appreciates highly the engagement of the Special Rapporteur and understands his visit as an additional step forward in the efforts to look into the possibilities for further promotion of media freedom in Montenegro. The Government of Montenegro is grateful to the Special Rapporteur for his commitment and engagement and appreciates highly the cooperation in the preparation of this visit with the Special Rapporteur himself, his associates, as well as the team of the UN system in Montenegro. Mutual coordination and understanding represent a confirmation of excellent relations between Montenegro and the United Nations, contributed by the activities of Montenegro as a member of the Human Rights Council.

2. The Government of Montenegro extends its gratitude for the acceptance of a set of comments of a technical character, sent with the aim to improve the text of the Report. In order to contribute to additional improvement of the Report prepared by the Special Rapporteur and contribute to the objectiveness of its findings, the Government of Montenegro submits this paper, as well, which contains explanations of the activities taken with regard to specific parts of the Report. Namely, this document, if considered together with the Report, contributes to the presentation of the state of freedom of opinion and expression in Montenegro in an objective manner, thus contributing also to the full exercise of mandate of the Special Rapporteur for freedom of opinion and expression with regard to transparency, objectiveness and constructiveness.

3. Fully respecting the use of information provided by other domestic and international actors, the Government of Montenegro finds it necessary to draw the attention to a set of inaccuracies and a number of irregularities in the given data, based on which numerous facts are inadequately interpreted, resulting in the drawing of imprecise or wrong conclusions. We noted that the final text failed to include a set of concrete facts and results achieved with regard to the issues raised by the Rapporteur, which were presented by the high Montenegrin officials from over 10 institutions to the Special Rapporteur in direct discussions. Neglecting argumentative facts and views of the official state authorities and relying on non-argumentative statements from other sources, which are not supported by evidence, in many parts of the Report, unfortunately resulted in a one-sided look into the status of the freedom of opinion and expression.

4. Besides, commenting the efforts aimed at prevention and sanctioning of assaults on journalists in the period following his visit, the Special Rapporteur relied on the sources mentioned in the footnote (footnote no. 6), which present incorrect facts. Having in mind that the Special Rapporteur failed to ask the Government of Montenegro to provide official facts, underlying here – official facts, not only views, prior to drafting the final text, the Government of Montenegro feels the duty to present in this document clarification of the progress achieved that was not noted in the Report prepared by the Special Rapporteur, together with the supporting facts and arguments. Besides contributing to the objectiveness of the final assessment, the fact we are presenting here also prove the commitment of the state institutions to pay priority attention to the protection of journalists within the overall protection of human rights and liberties.

5. With an additional aim to provide an objective analysis of the status of media freedom in Montenegro, we are quoting part of the Analytical Report, accompanying the EC Opinion on Montenegro's application for membership of the European Union, from 2010, states as follows: "*Freedom of expression (including the media) is guaranteed by the Constitution and broadly applied in practice. The media landscape is diverse and pluralistic. The Law on electronic media, together with the amendments to the Law on electronic communications lays a good legal basis for developing and regulating the public*

broadcaster and, more broadly, for independent and professional media."[1] Besides, as a confirmation of the commitment to guaranteeing freedom of expression, in the latest EC Progress Report for Montenegro, in Chapter 23 (Justice and Fundamental Rights) is is emphasized that *"freedom of expression has continued to be ensured, e.g. with the recent start of more serious investigations into cases of violence against journalists and the pronouncement of verdicts in some cases"*.[2][3] The assessment from the *2013 EC Progress Report for Montenegro*, given in the part related to chapter 10, *Information society and media*, which states that *"a good level of legal alignment has been reached"*, confirms the quality of the legislative framework.[4]

6. In the text that follows, please find additional facts and assessments that confirm the commitment of all the Government institutions to build a society based on fundamental values of democracy and observance of human rights and liberties, including the right to freedom of opinion and expression.

Summary

7. In the period following its independence, Montenegro achieved significant progress with regard to improvement of its legislative framework, enforcement and achievement of international standards of protection of the freedom of opinion and expression and protection of journalists.

8. Key activities of Montenegro that contributed to the promotion of the freedom of opinion and expression are as follows:

(a) The Commission for monitoring of actions taken by the responsible authorities with regard to investigations of cases of threats and violence against journalists, assassinations of journalists and assaults on media property was established on 26 December 2013. This Commission has 11 members, and its chair is the Deputy Editor in Chief of the Dan Daily, Mr. Nikola Markovic;

(b) The accused for the assassination of the Editor in Chief of the "Dan" Daily was pronounced a non-repealable single sentence of 19 years in prison;

(c) In February 2014, a Working group responsible for Risk assessment regarding danger for the employees in the media sector was established;

(d) In 2013, there were two pride parades organized in Montenegro, with the support of the Government of Montenegro, and the Police Directorate and the Ministry of Interior received public acknowledgment for that from the organizers – non-governmental organizations for the protection of rights of LGBT population;

(f) Public assembly represents a constitutional category. In the period January 2012-May 2014, there were **3,127** public gatherings held, while **118** were prohibited in the cases when the participants were posing direct danger to themselves or others by such gathering (e.g. protest walk of the persons with professional disability down the highway);

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[1] Analytical Report, accompanying the EC Opinion on Montenegro's application for membership of the European Union, from 2010, pg. 25

[2] 2013 EC Progress Report for Montenegro, pg. 57

[3] Montenegro created the legislative framework for free establishment and work of media, based on the principles of freedom, professionalism, independence, objectiveness and transparency in the functioning of the media; Media Law (Official Gazette of RoM 51/02, 62/02)

[4] 2013 EC Progress Report for Montenegro, pg. 34

(g) Defamation was decriminalized and all of the ongoing criminal proceedings involving defamation and insults before the Montenegrin courts, in which media were indicted, have been finalized with effective decisions of the courts;

(h) In 2011, the Supreme Court adopted the Principal Legal Position that is binding for all the national courts – that monetary compensation for damage pronounced by the court shall not involve excessive amounts that may have a discouraging effect on journalists and the media in the exercise of their role in preserving democratic values in the society.

(i) A three year model of transparent and independent financing of self-regulatory bodies was defined with the aim to promote self-regulation and encourage creation of basic prerequisites for work of the self-regulatory bodies;

(j) The Agency for Personal Data Protection and Free Access to Information registered in its database a total of 3600 applications, out of which 885 were denied and 10 were rejected.

Part III of the report – Domestic legal framework

9. Part III of the Report did not include the information that the Law on amendments to the Criminal Code from August 2013 introduces in the criminal legislation of Montenegro a new basis for exempting from punishment certain criminal offenses from Chapter Fifteen - criminal offences against freedoms and rights of man and the citizen that is based on the principle of predominant interest. Namely, for certain criminal offenses this involves unauthorized encroachment into the private life of the individual that can be justified if this is done in order to prevent or detect serious offenses Article 176a ("Exemption from punishment for criminal offences under Articles 172-176 of the Code): "No punishment shall apply for crimes under Articles 172-176 to anyone who by committing any of these offences prevents or detects a crime punishable by law by a five-year prison term or a more severe punishment."

Part IV of the report – Freedom of opinion and expression

B 1. Violence and intimidation of journalists

10. The Report contains the following inaccuracies: The Rapporteur did not ask Montenegro to provide data regarding cases of assaults on journalists that he mentions in the Report referring to the source in footnote 6, which relates to the period following his visit, based on which he defined certain conclusions and comments that do not reflect the actual situation – ***See Annex 1 – Paragraph 24.***

11. The Report also contains inaccuracies regarding legal terminology, leading to wrong perception of the actions taken by the authorities in the given case – **See *Annex 1 – Paragraph 26.***

12. The Rapporteur failed to include important facts regarding actions taken by the state authorities in the given cases – ***See Annex 1 - Paragraphs 30 and 31***

Paragraphs 76 and 77 of the Report – Recommendations regarding violence and intimidation of journalists

13. The recommendations did not take into consideration achievements of the Government of Montenegro in the period following the visit of the Special Rapporteur, that is, the Report recommends measures and activities that are already well underway. Namely, **The Rapporteur recommends that: "Paragraph 76** – *The identification of responsibilities in all cases of violence and intimidation against journalists must be achieved without delay, so perpetrators are brought to justice. In particular, adequate resources must be provided to ensure that the recently established commission for monitoring investigations into attacks on journalists fully succeeds in its task. Specific attention must be given to the clarification of the potential direct or indirect involvement of the authorities or public officials in all episodes of violence;* **Paragraph 77** – *The authorities should value the work of the investigative press in their statements and refrain from attacking it. Particular attention must be paid to ensuring accountability in episodes of violence against the press by members of political parties".*

14. We hereby provide the following facts, in support of the statement that recommendations are being implemented. The Commission for monitoring of actions taken by the responsible authorities with regard to investigations of cases of threats and violence against journalists, assasinations of journalists and assaults on media property was established. This Commission has 11 members, and its chair is the Deputy Editor in Chief of the Dan Daily, Mr. Nikola Markovic. Besides Markovic, members of this commission include representatives of the State Prosecutor's Office, the Police Directorate, the National Security Agency, the independent daily "Vijesti", the Media self-regulation council, the Trade Union of the media and the civil sector. International experts, that is, international organizations whose portfolio includes areas related to the tasks of this Commission can also participate in its work, and the interest of this kind was already expressed by the Organization for Security and Cooperation in Europe (OSCE). The Commission held six meetings so far, and the sixth meeting was attended by the co-rapporteurs of the Monitoring Committee of the Council of Europe Parliamentary Assembly, Mr. Kimo Sasi and Mr. Terry Leyden. The Commission has regular meetings, with the support provided by the Ministry of Interior to all of the commission members, in terms of providing insight into all hte acts, documents and facts that resulted in solving the cases from the aspect of the police. The Ministry of Interior also provides administrative support and business premises for the work of this commission.

B 2 – Defamation

15. In ***Paragraph 39*** the Rapporteur interpreted views from the study "Independent legal mission to study press freedom in Montenegro" in the manner which disputes the exercise of the right to legal remedy and the principles of independence and autonomy of judiciary in Montenegro. Contrary to that, we hereby state that the courts cannot deny the right to court protection to the citizens, including the right to lodge a lawsuit for compensation of non-material demage caused by encroachment or violation of rights, irrespective of who the defendant is – the media/ journalists or some other person. The courts have a constitutional and legal obligation to decide autonomously and independently, in regular court proceedings, whether petitions of this kind are grounded, including the duty to decide on lawsuits against journalist/ the media that were possibly frivolous or politically motivated.

16. ***Paragraphs 40 and 42*** of the Report contains inaccurate data regarding cases of compensation of damage involving journalists/ the media as the defendant. The caselaw

shows that out of the total number of cases received, the courts accept a very small number of petitions of this kind, they award compensation of non-material damage in the amounts that are far smaller than the ones requested in the petitions. The courts are applying the Principal Legal Position of the Supreme Court from 2011 related to awarding of a fair compensation of non-material damage in cases involving journalists/ the media as the defendant, while observing the caselaw of the European Court of Human Rights.

17. The following facts also confute the statements contained in ***Paragraphs 40 and 42***. In 2012, no verdict was adopted involving compensation of non-material damage, and two petitions were rejected. In 2013, the courts processed 23 cases involving journalists/ the media as the defendant, and eleven cases were solved. Out of that number, in seven cases the court rejected the petitions. Decisions to withdraw the lawsuit were adopted in two cases, and they are now effective (non-repealable). In one case (Basic Court in Podgorica) the court decision was adopted awarding the compensation of non-material damage in the amount of EUR 5,000, while the amount requested in the petition was EUR 100,000. Appellate process is underway in this case. In one case, the petition was partially accepted, by which the defendants are obliged to jointly compensate the non-material damage based on offended honor and reputation in the amount of EUR 2,000, while the amount requested in the petition was EUR 15,000. Appellate process in this case is also underway. In 2014, there are ongoing litigations in 25 cases involving compensation of non-material damage with journalists/ the media as defendants – *(See ANNEX 2) – Table "Pending cases"*.

Paragraph 78 of the Report – Recommendation regarding defamation

18. This recommendation ignores the activities undertaken in Montenegro with regard to defamation and proposes them as introduction of new measures. Namely, the Rapporteur recommends as follows – ***Paragraph 78***: *"The work of Montenegrin courts that are implementing the new national norm for defamation must be closely monitored to ensure that complaints of defamation are not used to intimidate the press. Courts must be systematically made aware of international standards relating to the imposition of penalties for defamation. The authorities must respect the freedom of the media to investigate their activities and refrain from using judicial instruments on defamation to intimidate critical voices in the press."*

19. Defamation was decriminalized and all of the ongoing criminal proceedings involving defamation and insults before the Montenegrin courts, in which media were indicted, have been finalized with effective decisions of the courts. Thus, there is no mention that the Government is using judicial instruments related to defamation to intimidate critical voices of the press, that is, this statement by the Special Rapporteur is not based on facts.

20. In 2011, the Supreme Court adopted the Principal Legal Position that is binding for all the national courts acting in cases of compensation of non-material damage involving journalists/ the media as defendants. If found that there are grounds for accountability of journalists and media, a court sets the amount of fair compensation for violation of personal rights (reputation, honour, etc.) taking into consideration all circumstances of the respective case, in particular: importance of violated right and the consequences thereof, duration of distress, objective of the compensation for moral damage, and taking into consideration that the awarded compensation should be, by default, in compliance with the case law of the European Court of Human Rights, and that the amount of the awarded compensation does not discourage journalists and media in fulfilling their role in preservation of democratic values of the society. In practice, the courts have been abiding by the standards of the ECHR and by the Legal Position of the Supreme Court in relation to the value requested in the petitions. Out of 23 cases processed in 2013, the claims were accepted in two cases

only. Defendants in both cases were media as legal persons, not journalists as individuals. In the 2013 Progress Report for Montenegro, the European Commission stated in its assessment of the "Freedom of Expression" that courts in Montenegro had been generally abiding by the case law of the European Court of Human Rights, and training of judges on ECHR standards will continue through the Judicial Training Centre.

B3 – Government interference in the media

21. With regard to ***Paragraph 48*** of the Report, were give the following explanation regarding ensuring independence of the public broadcaster. The Law on Public Broadcasting Services of Montenegro is harmonized with the recommendation No. (96) 10 of the Council of Europe on the guarantee of the independence of public service broadcasting. According to the assessment of the European Commission, Montenegro has achieved a good level of harmonization of the legal framework in the field of information society and media, as well as necessary administrative capacities, which resulted in opening of negotiations on Chapter 10 "Information society and media" at the Intergovernmental conference in Brussels on 31 March 2014.

22. The role of the state in the upcoming period of European integration relates to creation of prerequisites for sustainable work of the public broadcaster and for digitalization, as the key element for future of the broadcasting sector. The process of transition of the broadcasting service will involve looking for an adequate financial model to ensure sustainability that will not have a negative impact on the operations of the broadcasting service in public interest. This is a challenge that awaits not only Montenegro, but also many other modern societies in the world. In the attempt to respond to this challenge, the Government of Montenegro will follow relevant international practice, especially the EU legislation in this field.

Paragraph 79 – Recommendations regarding the Government interference in the media

23. Recommendation of the Special Rapporteur regarding privatization of Pobjeda and transparency in the allocation of public resources for advertisement does not reflect the efforts made in this area. The Rapporteur recommends as follows: ***Paragraph 79*** – "*The Government must urgently conclude the transfer of Pobjeda to private hands, as its continued ownership of his daily newspaper and the perceived political bias in its editorial line contributes to the politicization of the national media. The Government should also ensure full transparency with regard to the allocation of public resources in advertising by guaranteeing their fair distribution across all media. The autonomy and full independence of the public broadcasting services and of the Agency for Electronic Media must be ensured on permanent basis* ".

24. Namely, privatization of Pobjeda was included in every decision regarding privatization plan in the period 2007-2014, irrespective of whether it was simply about launching a tender or continued implementation of a tender, which clearly indicates the intention and willingness of the Government of Montenegro to privatize this company, in compliance with the obligation under the Law on Media. The Council for Privatization and Capital Projects launched three public tenders for privatization of the shareholding company "*Pobjeda*": on 21 November 2007, on 29 July 2008 and on 27. September 2011. The tenders failed only as a result of the withdrawal of bidders originally interested in purchasing Pobjeda, and not because the Government of Montenegro did not want it to be privatized. In the meantime, the company has been working continuously on reducing the number of employees through the Voluntary redundancy programme, creating more

favourable conditions for privatization. The number of employees in Pobjeda a.d. in the period between 2005 and 2014 has been reduced by more than twice, from 425 to 195 employees. By signing the Agreement on settling liabilities to the State with NIG Pobjeda AD in February 2013, the Government resolved the issue of fiscal debts of the company that had existed until then and which were standing in the way of privatization in the previous period. Thus, all the prerequisites for privatization have been created.

25. As stated before, the Government of Montenegro is taking action aimed at ensuring media pluralism, while taking care at the same time of the sustainability of the media and self-regulatory bodies, as well as the balanced distribution of funds for their work.

B4 – Polarization of the media

26. ***Paragraphs 53 and 54*** of the Report related to polarization of the media are deficient with regard to information on the Government's support to self-regulatory bodies presented to the Special Rapporteur.

27. Having in mind that media self-regulation is of special importance for the development of democratic, political and media culture, protecting at the same time the freedom to expression, and it also means assuming responsibility for public discourse, the Montenegrin model for the state's participation in financing of independent self-regulatory bodies has been designed in such a way that it does not allow for jeopardising their independence in relation to the Government. On the basis of the opinion of the European Commission - media (2011-2014), in cooperation with the EU Delegation to Montenegro, the Government of Montenegro adopted a model of three-year step-up financing of media self-regulatory bodies in order to promote self-regulation and create conditions for functioning of self-regulatory bodies. Self-regulatory bodies were obliged to choose independently a financing model, and the establishment of the model of state support resulted from the requests of self-regulatory bodies themselves, due to their inability to get funds from other sources. Self-regulatory bodies are not obliged to submit the Report on disbursements of allocated funds, and all of this indicates that their independence cannot be called in question. Based on the said model, since 2012, two self-regulatory bodies – Media Self-Regulation Council (18 members) and Self-Regulatory Local and Periodical Press Council (22 members) – have been financed regularly through the said model, which will be implemented ending with 2014. As per the defined model, obligations towards self-regulatory bodies have been fully implemented for 2012 and 2013, and support for 2014 is being prepared.

28. In 2011, the Government of Montenegro purchased all debts of private printed and electronic media, who had not settled their liabilities for signal frequency, and of all printed media who had not settled financial obligations towards commission distributors, whereby the media themselves are responsible for the choice of commission distributors. Specifically, the Government of Montenegro has purchased debts of commercial broadcasters to the Agency for Electronic Communications (AEC) and the Radio Broadcasting Centre (RBC) in the amount of 4.447.639,61 €.[5]; state support to commercial

[5] The programme was implemented in the period 2011-2013 with the following dynamics: in 2011, 2.148.174,81 € (48% of the total allocated amount); in 2012, 1.512.197,48 € (34% of the total allocated amount; in 2013, 787.267,34 € (18% of the total allocated amount).

printed media in the amount of 880.802,32 € has been realized as well, without discrimination of any key printed media and daily newspapers[6].

Paragraph 80 – Recommendation regarding polarization of the media

29. In **Paragraph 80** the Rapporteur recommends as follows: "A better dialogue among all media outlets is essential to permit a more objective discussion on the challenges faced by this vital sector. All media groups must be stimulated to voluntarily take part in self regulatory initiatives, to pay particular attention to the elimination of discriminatory remarks and to improving the quality of the work currently being developed. To be effective, self-regulatory bodies must have their work well publicized among readers and viewers, so these may file complaints, if desired. The staff that supports self-regulatory initiatives must have their independence from media owners preserved."

30. Having in mind that the media are free, that is, independent in designing their editorial and management policy, the issue of polarization of the media exceeds the role of the state, which, according to the European standards in the media sector, cannot act as a mediator in such and similar situations. The issue of reducing polarization of the media relates directly to the media owners, who design editorial policy. Interference of the state in the work of media is reduced only to the transparent and equal incentives for sustainability of the self-regulatory bodies, upon their request, as well as incentives for media pluralism, as confirmed by the aforementioned data.

B 5 – Access to information

31. The statement by the Special Rapporteur from ***Paragraph 62*** that the deadline for deciding on the application for free access to information has been doubled is not grounded, having in mind that the deadline in Montenegro is among the shortest ones in Europe. The deadline to decide on an appeal to the first instance decision is 15 days, and in the opinion of the international experts it is very short. The Agency Council, as the second instance body, has the duty to decide on meritum, which is also a rare example and a significant step forward that Montenegro made in promoting the right of the public to know. It is a fact that certain laws give the possibility to limit access to information, however, they were adopted prior to the Law on Free Access to Information, thus, the provisions contained in them cannot be applied, and access to information can only be limited in the manner and according to the procedure defined by the Law on Free Access to Information. There is notable progress made with regard to the percentage of decisions by the authorities with regard to applications for free access to information; it is significantly higher than 48% that it used to be. The Agency for personal data protection and free access to information has registered in its database a total of 3600 applications, out of which 885 were denied and 10 were rejected.

32. There is an obvious increase in political will, as well as public awareness that free access to information can provide for efficient control of work of the authorities. During the current year, although it is not fully equipped in terms of staff and financial resources, the Agency has been strengthened significantly, thus it meets, with a greater or lesser success, its legally prescribed obligations. Via its web site, as well as through the presence in the

[6] The amount allocated to Bega Press for execution of commission agreements with publishers - Jumedia Mont, Pobjeda Ad. Daily Press and Monitor), as follows: JUMEDIA MONT DOO - Daily "Dan" - 332.686,82€; POBJEDA AD - Daily "Pobjeda" - 267.598,94€; DAILY PRESS DOO - Daily "Vijesti" - 255.756,31€; MONITOR DOO - Weekly "Monitor" - 24.760,25.

media, the Agency has regular contacts with the public, with the aim to raise public awareness about the fact that the citizens have the right to know at any point in time which one of the state authorities and in which way performs tasks in their interest, on behalf and at the expense of the citizens, and which authority is neglecting its duties. The problem that the Agency still faces is the inadequate IT solution that is used to register applications for free access to information, decisions regarding those applications and the appeals lodged and decisions of the second instance authority.

Paragraph 81 – Recommendations regarding access to information

33. The Special Rapporteur recommends enhancing access to information in **Paragraph 81** as follows: "Adequate financial and human resources must be secured for the newly established Agency for the Protection of Personal Data and Free Access to Information so it can fully implement its mandate with autonomy and independence. The Agency should be capable of processing all requests effectively and also systematically report on institutional compliance with the law. Investments must be made to make civil society aware of the procedures for requesting information and to enhance the capacity of all public entities to comply with the law through technical support and training."

34. The Agency for personal data protection will continue to invest maximum efforts in order to fully implement this recommendation.

B 6 – Incitement to hatred and Paragraph 82 – Recommendation regarding incitement to hatred

35. With regard to incitement to hatred, the Special Rapporteur, in **Paragraph 82** recommended as follows: "The state must actively promote the right to expression of minorities, ensuring the full independence of those benefiting from financial resources. Law enforcement authorities must fully implement national norms regarding the prohibition of discrimination on all grounds. Specific attention must be paid to the recurrently high levels of hostility against the LGBT community. In particular acts of aggression against this community must be fully investigated. The authorities must publicly express their complete rejection of all forms of incitement to hatred. Efforts to promote the self-regulation of the media should also play an important role in ensuring better protection against incitement to hatred through the media."

36. In the context of promotion and protection of the rights of the LGBT population, the Ministry of Interior and the Police Directorate are continuously developing a special sensibility for addressing all issues faced by members of this minority group. In this segment, actions of MoI of Montenegro rely on the principles of IDAHO Declaration, which sets out that *"all human beings are born free and equal in dignity and rights, and that human beings of all sexual orientations and gender identities are entitled to the enjoyment of human rights"*.

37. By securing two Pride Parades during 2013, the Police Directorate confirmed its capacities to respond to all tasks[7]. PD signed Memorandums of Cooperation with NGOs working towards promotion and protection of the rights of the LGBT community, primarily

[7] *A positive assessment of the efforts of the Montenegrin police and the Ministry of Interior, as well as the qualification of Montenegro as the regional leader in protecting and promoting rights of LGBT population was given by the Council of Europe Commissioner for Human Rights, Nils Muižnieks, in his Montenegro Mission Report.*

with the NGO Queer Montenegro, LGBT Forum Progress and Juventas. "Team of trust" was established in 2014, consisting of police officers who had completed training to work with the LGBT community, and members of the LGBT community. The team meets regularly and reviews issues related to LGBT rights in order to find adequate solutions in different situations.

38. Representatives of PD participated actively in drafting of the Strategy for improving quality of life of LGBT persons for the period 2013 - 2018, and in drafting of the Action Plan for implementation of this Strategy for 2013. The Police Directorate delivered training to police officers for sensible work with the LGBT community and appointed LGBT contact police officers in all police stations in Montenegro.

39. In December 2013, the Police Directorate, Ministry of Interior and NGO LGBT Forum Progress issued a joint publication "Police, Tolerance and Accepting Identities".

40. The new Law on Changes and Amendments to the Anti Discrimination Law, adopted at the session of the Parliament of Montenegro on 26.03.2014, tightened the penal policy relating to committed discrimination (ranging from 500 to 20.000 EUR) and introduces explicitly the institute of prohibition of hate speech, for the purpose of enhancing mechanisms for protection and promotion of anti-discriminatory policy. The Law on Gender Equality obliges media to "promote gender equality through a programme concept". The Ministry for Human and Minority Rights is continuously providing training[8] to protectors of human rights, police and prosecution organisations, government employees, representatives of judiciary authorities, representatives of local governments, inspection services and others competent for providing protection against discrimination, and legal and psychological support to victims and witnesses of violence and hate crimes. Institutions competent for fighting against discrimination will be, by applying improved legal framework, better prepared for implementation of international standards and national legislation and will cooperate more efficiently on protection of the rights of marginalized groups (Roma, LGBT, persons with disabilities, women and minorities).

41. The Public Prosecution Office of Montenegro acted on 18 applications filed by NGO LGBT "Forum Progress" against 23 known persons and 3 unknown persons, and against 1 daily newspaper. With regard to cases of violation of the rights of LGBT persons from 01 January 2011 to 31 December 2013, regional misdemeanour authorities processed 66 cases in total relating to misdemeanours involving violation of rights of LGBT persons, out of which 44 cases or 67% were completed on 12 February 2014. The completed cases were solved by fines in 30 cases, imprisonment in one case, warning in one case, corrective measure in one case, statute of limitations with 7 verdicts of acquittal. The Misdemeanour Committee of Montenegro had no cases in which filing of charges was rejected.

B 7 – Restrictions of public demonstrations

42. The fact that a number of political public assemblies – peaceful protests, and the Pride Parade in the center of town, were organized in the past years demonstrates that the Government of Montenegro allows for exercising of the freedom of public assembly, and the allegations that the Special Rapporteur obtained from the sources that provide no arguments for their claims are incorrect that the provision of the Law relating to the need to

[8] http://www.mmp.gov.me/ResourceManager/FileDownload.aspx?rid=148839&rType=2&file=PLAN%20ZA%20EDUKACIJU%20DR%C5%BDAVNIH%20SLU%C5%BDBENIKA,%20NOSIOCA%20PRAVOSUDNIH%20FUNKCIJA. Pdf

notify the Police Directorate of organization of public assemblies is misused by being interpreted as a request for approval.

43. In relation to passing acts to prohibit certain public assemblies (public demonstrations), the actions taken were legal and professional, fully taking into account and considering every request – application individually. In addition to considering compliance with the prescribed legal provisions which define the content of an application for a public assembly, a competent organizational unit invites and interviews (often on several occasions) the applicant for the purpose of complete and objective actions. Reasons for prohibiting a public assembly relate in most cases to safety of persons (organizers and persons who intend to participate in the public assembly), safety of traffic, movement and work of other citizens.

44. Prior to passing an act prohibiting a certain public assembly, the police have almost all the relevant information relating to the public assembly and prepares security assessment on the basis of such information. If the organizer intends, in addition to an assembly in a specific place at a specific time, to endanger lives and health of participants of the public assembly, of other citizens or traffic safety, by certain type of movements *(walking along vital town roads, motorway, regional and local roads, etc.)*, if it is not possible to reach any kind of a "compromise" with the organizer in terms of alternation of the route, identifying another location for the assembly, etc., the competent organizational unit of the police prohibits such public assembly. Efforts are made in every specific case to comply with all applications for organizing public assemblies, even when minimum requirements for such assemblies are met. In 2010, the police secured public assemblies in 2.283 cases and rendered 78 decisions prohibiting peaceful assemblies. In 2012, the police secured public assemblies in 1.809 cases and rendered 56 decisions prohibiting peaceful assemblies. In 2013, the police secured public assemblies in 1.643 cases and rendered 47 decisions prohibiting peaceful assemblies. In January, February and March 2014, the police secured public assemblies in 395 cases and rendered 15 decisions prohibiting peaceful assemblies[9].

[9] *For instance, a protest walk of **disabled workers** along a dangerous 118 km long motorway from Bijelo Polje to Podgorica was prohibited on a number of occasions.*

Annex I

Journalists

45. ***Paragraph 24*** – In the period from 2008 to February 2014 there were 34 registered cases, not 30 as teh Rapporteur stated in the report, where physical force or serious threats were used against representatives or property of the media, and out of that number 26 cases are finalized, in the way that 20 of them were processed, while in 6 cases of reported assaults the prosecutor assessed that "there are no elements of a criminal offense". In the given period, there were 13 criminal and 10 misdemeanor reports filed, involving 36 persons. Analyzing the structure of perpetrators, it is not possible to conclude that motives behind the attacks were of a political nature, because in most cases the processed persons were not employees of the state authorities or persons belonging to political parties. Besides, the analysis of the recorded events shows that in a number of cases there were personal reasons involved or on the spot conflicts. In agreement with the responsible prosecutors, in late 2013 working teams were established, with the aim to solve cases of damage cause to the independent daily "Vijesti", attack on the journalist of the "Dan" daily, Lidija Nikcevic, and attack on the journalist from Berane, Tufik Softic. As a result of this activity, the cases of activation of an explosive in the building of the independent daily "Vijesti" in Podgorica were solved - on 8 March 2014, the case of a criminal offense of causing general danger, together with the criminal offense of unauthorized carrying of weapons and explosives, perpetrated on 26 December 2013 against the editorial of the independent daily Vijesti in Podgorica was solved and two persons were processed. The case involving one journalist, Ms. Milka Tadic Mijovic was solved. She reported that she received serious threats via SMS service on her mobile phone from an unknown person. In this respect, the person who sent these threatening messages to the journalist was identified, and the case was referred to the responsible prosecutor for further action.

46. ***Paragraph 26*** – The first-instance judgement of the Higher Court in Podgorica was reversed by the judgement of the Appellate Court of Montenegro and the accused D.M. was convicted to a cumulative sentence of 19 years of imprisonment, and the judgement of the Higher Court in Podgorica K.no.109/08 of 27.04.2009 became final and enforceable on 4.12.2009.[10] The Supreme State Prosecutor's Office has opened a case for the purpose of discovering accomplices in the murder of Duško Jovanović. A number of witnesses are being interrogated. Regarding facts, D. M. is charged with being an accomplice of "for now unidentified persons" and with killing with intent Duško Jovanović, and an attempt to murder M. M. The description of facts presented in the judgement does not include descriptions of individual actions of D.M., such actions are not separated in relation to actions of other unidentified perpetrators respectively, and the number of unidentified perpetrators is not specified, but all acts committed by D.M. and unidentified accomplices are described as jointly committed acts. It follows from the above that the statement of the Rapporteur that "One person was convicted for being an accomplice" is incorrect because D.M. was convicted as one of perpetrators, and not as an accomplice, whereas other perpetrators have not been identified and processed by the Prosecutor's Office.

47. ***Paragraph 30*** - In the case of assault against Zeljko Ivanovic, following the measures and actions taken, the perpetrators have been identified and they confessed the offense. The Basic Court in Podgorica sentenced the accused P.R. and B.M. to one year in

[10] This decision can be downloaded from the web page of the Higher Court in Podgorica: http://sudovi.me/vspg/odluke/

prison each; this was a final decision of the court and both of them have served the sentence.

48. The case of assault against Mihailo Jovovic, Editor in Chief of the "Vijesti" Daily, from 2009 was processed by filing criminal charges against M.M. for the criminal offense of inflicting serious physical injuries, and the misdemeanor charges against the Mayor, M.M. The accused M.M. was found guilty and was conditionally sentenced (6 months in prison, conditional sentence of 2 years), and the mayor, M.M. was found guilty for a misdemeanor offense and fined with EUR 400.

49. ***Paragraph 31 -*** There were three registered cases of threats and assaults on the journalist Olivera Lakic. All three cases were processed, by filing the report in 2011 against M.S., for the criminal offense of endangering security; against G.M. in 2011, for the same criminal offense (later on, the prosecutor pressed charges for the criminal offense of false registration); and in 2012, against B.I. for the criminal offense of violent behavior. B.I. was sentenced to 9 months in prison.

Annex II

Table presenting ongoing litigations

Plaintiff	*Compensation of damage*	*Claim in €*	*Defendant*	*Court*	*Date when decision was adopted*	*Judgment or decision*	*Other relevant data (appeals)*
1.Mijović Milivoje P.no.3149/13	Non-material/moral	5.000€	"Jumedija mont"	Basic court in Podgorica	26.09.2013.	Court decision; claim partially accepted; 300 € fine; not final	
2. Zeković Sreten P.no.978/12	Non-material/moral	41.500€	"Pobjeda"	Basic court in Podgorica	22.04.2013	Court decision; claim denied; not final	
3.Radulović Slavko P.br.2090/12	Non-material/moral	20.000€	"Pobjeda"	Basic court in Podgorica	In process		
4.Kolarević Ana P.no.4675/12	Non-material/moral	100.000€	"Daily press"	Basic court in Podgorica	19.07.2013.	Court decision; claim accepted in the amount of 5.000 €; not final	
5.Kolarević Ana P.no.4676/12	Non-material/moral	100.000€	"Yumedia mont"	Basic court in Podgorica	17.10.2013.	Court decision; claim denied; not final	
6.Kolarević Ana P.no.4677/12	Non-material/moral	100.000€	"Monitor"	Basic court in Podgorica	18.10.2013.	Court decision; claim denied; not final	
7.Kalač Rešat P.no.4709/12	Non-material/moral	20.000€	"Dan"	Basic court in Podgorica	13.02.2014.	Court decision; claim denied; not final	

Plaintiff	*Compensation of damage*	*Claim in €*	*Defendant*	*Court*	*Date when decision was adopted*	*Judgment or decision*	*Other relevant data (appeals)*
8.Murić Hamdo P.no.4710/12	Non-material/moral	20.000€	"Dan"	Basic court in Podgorica	14.04.2014.	Court decision; claim denied; not final	
9.Kusturica Emir P.no.410/13	Non-material/moral	100.000€	"Monitor"	Basic court in Podgorica	14.06.2013.	Court decision; claim denied; not final	
10.Fatić Marija P.no.2487/13	Non-material/moral	50.000 €	"Daily Press"	Basic court in Podgorica	In process		
11.Justicija P.no.4097/13	Non-material/moral	To publish a counterargument	"Daily Press"	Basic court in Podgorica	29.04.2014.	Court decision; claim denied; not final	
12.Kufaj Hajdar P.no.4206/13	Non-material/moral	5.000E	"Dan"	Basic court in Podgorica	In process		
13. Vujović Dušanka P.no.4931/13	Non-material/moral	-	"Daily Press" "Yumediamont"	Basic court in Podgorica	In process		
14. Vojvodić Radislav P.br.4970/13	Non-material/moral	To publish a correction and reply	"Daily Press"	Basic court in Podgorica	In process		
15.Fatić Marija P.no.5088/13	Non-material/moral	50.000E	TV "Vijesti"	Basic court in Podgorica	In process		
16. Laković Miodrag P.no.5395/13	Non-material/moral	3.000€	"Yumediamont"	Basic court in Podgorica	In process		
17.Vujović Ivan P.no.1053/14	Non-material/moral	250.000€	"Daily Press"	Basic court in Podgorica	In process		
18.Žugić Radoje P.no.1171/14	Non-material/moral	15.000€	"Yumediamont" "Dan" daily	Basic court in Podgorica	In process		

Plaintiff	*Compensation of damage*	*Claim in €*	*Defendant*	*Court*	*Date when decision was adopted*	*Judgment or decision*	*Other relevant data (appeals)*
19.Popović Ljubomir P.no.1857/14	Non-material/moral	15.000€	"Yumediamont"	Basic court in Podgorica	In process		
20.ZDP Crne Gore P.no.1933/14	Non-material/moral	50.000€	ˇ Insajder timˇ Belgrade; Daily paper "Informer" Montenegro	Basic court in Podgorica	In process		
21. Akcija za ljudska prava P.no.2004/14	Non-material/moral	In order to publish a reply to the original text	ˇInsajder timˇ Doo Beograd; daily paper "Informer" Montenegro	Basic court in Podgorica	In process		
22. Bulatović Milena P.no.2109/14	Non-material/moral	10.000€	"Daily Press"	Basic court in Podgorica	In process		
23.Bulatović Luka and others from Bijelo Polje P.no.965/11	Non-material/moral	120.000€	1.Čikić Ibrahim 2."Daily Press" DOO Podgorica	Basic court in Bijelo Polje	Case in process. Main hearing finished on 05 May 2014 Court decision to be pronounced on 03 June 2014	Decision not final	-
24.Zeković Radivoje from Bijelo Polje P.no.81/13 Withdrawn, new no. 409/14	Non-material/moral	15.000,00€	1. "Daily press" for publishing activity Podgorica, 2. Aida Sadiković from Rozaje, journalist in the Vijesti daily		Court decision adopted on 08.11.2013 and it partially accepted the claim. Appealed by the plaintiff	Decision not final	

Plaintiff	*Compensation of damage*	*Claim in €*	*Defendant*	*Court*	*Date when decision was adopted*	*Judgment or decision*	*Other relevant data (appeals)*
					and the defendant . Decision revoked by the judgment of the Higher Court in Podgorica Ref. no. 5540/13 dated 03.04.2014. Case in process.		
25.Leković Georgina Borislav, Borivoje and Milanka P.no . 9/14	Non-material/moral	8.000,00€	"Yumediamont"		In process	Decision not final	